

DEPARTMENT OF INDUSTRIAL RELATIONS

UPDATED INFORMATIVE DIGEST FOR

PROPOSED ACTION TO AMEND

CALIFORNIA CODE OF REGULATIONS, TITLE 8, CHAPTER 8, SUBCHAPTER 4

SECTIONS 16421 through 16439.

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UPDATED INFORMATIVE DIGEST

Statutory Changes:

Stats 2003 Ch 834 §1 (AB 324), which became effective on January 1, 2004, added subparts (c) and (d) to Labor Code §1771.5, as follows:

“(c) For purposes of this chapter, "labor compliance program" means a labor compliance program that is approved, as specified in state regulations, by the Director of the Department of Industrial Relations.

“(d) For purposes of this chapter, the Director of the Department of Industrial Relations may revoke the approval of a labor compliance program in the manner specified in state regulations.”

No changes were made in the text of the regulations as a result of this statutory amendment, which clarified authority already understood to exist.

Stats 2003 Ch 851 §2 (AB 1506) added a new Labor Code §1771.9, which like Labor Code §§ 1771.7 and 1771.8, would require an awarding body to adopt and enforce a labor compliance program for a project financed in whole or in part by the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century. The operation of this section is contingent upon voter approval of the Act in the November 7, 2006, statewide general election. A new subpart (a)(4) was added to section 16423 of the regulations to reflect this statute.

In the March, 2004, statewide primary election, the voters approved the Kindergarten-University Public Education Facilities Bond Act of 2004, which was already subject to labor compliance program requirement under Labor Code §1771.7(a). The words “subject to voter approval in 2004” were deleted from subpart (a)(2) of section 16423 of the regulations to reflect this action.

Further Revisions to Amendments Since the Notice of Proposed Action:

Section 16421: A new subpart (b) was added. What was previously proposed as subpart (b) was moved to subpart (c). A new subpart (d) was added. These revisions clarify questions raised during the rulemaking. Appendix A also was revised to delete obsolete text, update an obsolete citation, clarify another requirement, and provide an alternate means for showing that the information in the Appendix was conveyed to a subcontractor. The revisions to the text and to Appendix A do not change the effect of the regulation. A further description of the revisions and purpose for the revisions is found in the Final Statement of Reasons.

Section 16423: See revisions noted above as a result of a new statute and voter-approved bond act.

Section 16424: A new section was added to provide information about how to send in an application for approval of a Labor Compliance Program. This addition does not change the effect of the regulations. A further description of the purpose of this new section is found in the Final Statement of Reasons.

Sections 16425 and 16426: Revisions were made in the text to clarify the purpose and meaning of factors used to evaluate an application. The title of Section 16426 also was modified to correspond with the title of Section 16425. The revisions do not change the effect of the regulations. A further description of the revisions and purpose for the revisions is found in the Final Statement of Reasons.

Section 16427: Subpart (a) was amended to specify that a program must have “active enforcement responsibilities” for eleven months before applying for final approval. The effect of the revision is to preclude a program that has been initially approved from seeking final approval until it has been in actual operation for at least eleven months. A further description of the purpose for the revision is found in the Final Statement of Reasons.

Section 16428: The word “final” was deleted wherever it appeared in the regulation, and new subpart (e) was added. The effect of removing “final” is to make the same standard apply to revocation of either an initial or final approval, there previously having been no standard for the former. Subpart (e) clarifies that the standard does not apply to a decision on whether to grant a final approval or extend a period of initial approval, and does not change the effect of the regulation. A further description of the purpose for the revisions is found in the Final Statement of Reasons.

Section 16431: Subpart (a) was revised and a new subpart (c) was added to change the time for filing an annual report. The revisions do not change the effect of the regulations. A further description of the revisions and purpose for the revisions is found in the Final Statement of Reasons.

Section 16432: Subpart (a)(1) was redesignated as subpart (b). The revision is non-substantive.

Section 16433: Subpart (a) was revised to categorize installation work as subject to the \$25,000 exemption. The revision clears up an omission and is consistent with current construction of the law and does not change the effect of the regulations. A further description of the revision and purpose for the revision is found in the Final Statement of Reasons.

Section 16434: Proposed subpart (b) was withdrawn pending a further rulemaking.

Section 16435: The original text of subpart (a) was restored and citations in later subparts were corrected. The revisions do not change the effect of the regulations. A further description of the revisions and purpose for the revisions is found in the Final Statement of Reasons.

Section 16436: A citation was added in subpart (b). The revision does not change the effect of the regulations. A further description of the revision and purpose for the revision is found in the Final Statement of Reasons.

Section 16437: The text of subpart (a)(1) was revised to clarify the information needed regarding the acceptance of a public work. The punctuation and text of subpart (a)(4) was also revised to clarify a confusing cross-reference. The revisions do not change the effect of the regulations. A further description of the revisions and purpose for the revisions is found in the Final Statement of Reasons.

Section 16439: The text of subpart (a)(1) to incorporate a specific reference to a statutory requirement. The revision does not change the effect of the regulations. A further description of the revision and purpose for the revision is found in the Final Statement of Reasons.

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Except as set forth above, there are no other changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.